THE HONOURABLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE SRI JUSTICE

R.SUBHASH REDDY

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WRIT PETITION No. 23087 OF 1994

Dated 9th November, 2005

Between:

Muntapaka Narsimha and three others.

… Petitioners

And

The Special Court under A.P. Land Grabbing

(Prohibition) Act, BRKR Buildings,

Tankbund Road, Hyderabad and others.

… Respondents.

ORAL ORDER:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

This case was taken up yesterday for hearing, but, nobody appeared for the respondents and we heard the learned counsel for the petitioners. Since respondents were not represented, therefore, we adjourned the case to today so that the counsel for respondents could appear. Today also, nobody appeared for the respondents. Therefore, this case has to be decided in their absence.

The learned counsel for petitioners challenged two orders, one is the judgment and decree passed in L.G.C. No.32 of 1994 by the Special Court under the A.P. Land Grabbing (Prohibition) Act, dated: 8.9.1994 and the other are the orders dated: 21.11.1994 passed in Review I.A.Nos.1452 of 1994 and 1459 of 1994. In the application before the Special Court, the applicants contended that they were in possession of the suit land and they wanted a restraint order against the respondents in the LGC from interfering with the applicants' possession and enjoyment. They also sought a declaration that they should be declared as owners. By judgment dated 8.9.1994, the Special Court allowed the L.G.C. and directed the respondents to vacate the schedule land within two months from the date of the judgment. Thereafter both the parties filed Review Petitions. Review Application filed by the writ petitioners was dismissed and the application filed by the applicants before the Special Court was allowed and the following order was passed:

> " In the result, the Review application is allowed and the respondents are directed not to interfere with the possession and enjoyment of the Application-Schedule land by the petitioners"

This order also records that the applicants before the Special Court were in possession of the land.

The learned counsel for the writ petitioners submits that if a person is in possession, he cannot complain of land grabbing before the Special Court within the provisions of the A.P. Land Grabbing (Prohibition) Act and this has already been considered by a larger Bench of this Court in **HAE Co-op. Housing Society Ltd., Hyd. V. Special Court, etc. (LB).** The Court defined and interpreted the words "land grabbing" as defined under Section 2(e) of the Act and came to the conclusion that if a party is in possession of the land, he cannot complain about the land grabbing. Following the said judgment, we feel that the judgment passed by the Tribunal in the main L.G.C. and also the orders in Review applications cannot be sustained and are quashed. The Writ Petition is allowed. No order as to costs.

(BILAL NAZKI, ACJ)

9.11.2005

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(R.SUBHASH REDDY, J.)

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